IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.21166 of 1997

Dated: 25-01-2007

Between:

Boda Chinnam Naidu, s/o late Appala Swamy,
aged about 39 years, Tea shop,
r/o Gotlam village, Bonadapalli Mandal,
Vizianagaram District.

... Petitioner

and

1. The District Collector,
   Vizianagaram District and another.

... Respondents

ORDER:

This petition is filed seeking *mandamus* declaring the action of the second respondent in R.C.No.113/1996 C, dated 12-07-1997 as arbitrary and illegal and to set side the same.

2. It is the case of petitioner that his grand father constructed a mud terraced house in an extent of Ac.0-02

cents in Sy.No.2/2 belongs to the temple of G.N. Valasa, hamlet of Gotlam village and the remaining extent of land i.e. Ac.0-01 cent belongs to the Roads and Building Department, which is adjacent to N.H.43 road. It is stated that petitioner is eking out his livelihood by running a teashop in the front portion, facing towards National High Way. It is further stated that the ancestors of petitioner are in peaceful possession and enjoyment of the said premises since last 75 years without any interference. According to petitioner, he encroached an extent of Ac.0-01 cent towards the National High way, which belongs to the Roads and Buildings Department and as such, second respondent has no authority to issue notice directing him to vacate the premises in question and it is the Roads and Buildings Department is competent to issue any notice.

3. Heard learned counsel for the parties.

4. This Court, on 04-09-1997 while issuing *Rule nisi,* in W.P.M.P.No.25733 of 1997 granted interim direction to the respondent authorities not to evict petitioner from the premises in question pending disposal of the writ petition. Despite the said fact, no counter affidavit is filed on behalf of respondents.

5. From the facts it is clear that the Gram Panchayath wanted to raise a compound wall under 'Janma Bhoomi' scheme and as the teashop of petitioner is causing obstruction, it appears second respondent issued notices dated 17-08-1996, 19-12-1996, 26-02-1997 and 17-05-1997.

But, however, as petitioner has not removed the said obstruction,
the present notice was issued to petitioner on 12-07-1997 and questioning the said notice, this writ petition is filed. Even according to petitioner,
the land belongs to the government and he encroached into the same and raised a tea shed. The said notices clearly indicate that petitioner was directed to vacate the premises and hence, it cannot be said that the said action of the respondent is violative of principles of natural justice or without jurisdiction and accordingly, I see no merits in this writ petition.

6. In the result, the writ petition is dismissed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.25-01-2007
GLV